Subpoena

As a lawyer for

1. Applicant 1
2. Applicant 2
3. Applicant 3
4. Applicant 4
5. Applicant 5
6. Applicant 6
7. Applicant 7

(*all represented by attorney Eddie Omar Rosenberg Khawaja*)

I hereby summon

The Housing and Planning Agency
Carsten Niebuhrs Gade 43
1577 Copenhagen V

to appear as defendant in the case below, under which I will set down the following

ASSERTION:

The Housing and Planning Agency is required to acknowledge that the agency's approval of 4 January 2023 regarding the sale of public housing etc. in Mjølnerparken, Copenhagen N, is invalid.

CASE PREPARATION

The case concerns the validity of the Housing and Planning Agency's approval of the sale of blocks II and III in Mjølnerparken to the property investment company NREP.

In this connection, the case concerns whether the approval is in accordance with, among other things Denmark's international obligations, including how these are implemented in national law.

The case is closely related to a case pending at the Eastern High Court under case BS-27824-OLR, brought by a number of the same applicants against the Ministry of the Interior and Housing (now the Ministry of Social Affairs, Housing and the Elderly). The court case in question has been referred by the Copenhagen City Court to the Eastern High Court in accordance with section 226, subsection of the Administrative Procedure Act. 1, and concerns the ministry's approval of a development plan for Mjølnerparken.

Mjølnerparken is a general housing department from 1986 under the housing organization Bo-Vita, located in Copenhagen N. The department consists of 528 family homes and 32 youth homes spread over four blocks.

Mjølnerparken has since the introduction of the designation "ghetto" in the Act on public housing etc. (General Housing Act) has been characterized as a "ghetto". On the "Ghetto list" for In 2018 and 2019, Mjølnerparken is categorized as a 'hard ghetto area'.

As a result of Mjølnerparken being categorized as a "hard ghetto area" in December 2018, Bo-Vita and Copenhagen Municipality's Citizens' Representation were required to draw up a development plan.

The development plan for Mjølnerparken (the Development Plan) (**appendix 1**) was adopted by Bo-Vita's highest authority, the board of representatives, with 19 votes in favor, 10 votes against and one blank vote on 14 May 2019. The development plan was submitted to the Danish Transport, Housing and Construction Agency on 28 May 2019. On 20 June 2019, the Development Plan was approved by Copenhagen Municipality's citizen representation.

The departmental board for Mjølnerparken was excluded from participation in the preparation of the Development Plan, and chose, on the basis of the decision regarding the sale of family homes stipulated in the plan instead of the relabelling of existing family homes as housing for the elderly or youth, on 31 May 2019 to submit an alternative development plan to the Ministry of Transport and Housing. This plan was rejected by the Ministry of Transport and Housing on 25 June 2019. On 10 September 2019, the Development Plan was approved by the Ministry of Transport and Housing. It appears from the Development Plan that the main thrust of the plan is the continuation of the so-called physical comprehensive plan for Mjølnerparken and then the sale of family homes.

The physical comprehensive plan for Mjølnerparken (the comprehensive plan) is an independent, unified plan and an application for support for the renovation of Mjølnerparken, which was approved by 89 per cent. out of 509 participating residents from Mjølnerparken on 14 June 2015 and Copenhagen Municipality's Citizens' Representation on 10 December 2015. This plan includes e.g. renovation of existing housing, creation of open spaces and infrastructure, establishment of a shopping street, establishment of a new shared neighborhood house and establishment of new roof apartments. The initiatives in the physical comprehensive plan aim to " *ensure a well-functioning and safe residential area with attractive and good housing that creates a positive change and improvement of Mjølnerparken* ".

According to what is stated in the Development Plan, Mjølnerparken will have reduced the number of public family homes to approx. 233 homes for sale of whole carreres.

On 27 May 2020, the applicants took out a summons against the Ministry of Transport and Housing (now the Ministry of Social Affairs, Housing and the Elderly and hereinafter referred to as "the Ministry") claiming that the Ministry should recognize that their approval of 10 September 2019 of the Development Plan for Mjølnerparken is invalid, cf. case BS-27824-OLR.

On 16 October 2020, three of the UN's special rapporteurs sent an urgent notice (UA DNK 3/2020) to the Danish government with a call to postpone the sale of the homes in Mjølnerparken until a decision is made in case BS-27824-OLR (appendix **2**). In the announcement, the following is, among other things, listed on pages 5 and 6:

> "Using the concentration of individuals of "non-Western" nationality or heritage as the basis for determining "ghettos" and "tough ghettos" is inconsistent with human rights law.
>
> […]
>
> [F] orced evictions are a gross violation of the right to adequate housing and may also result in violations of other human rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions."

On 30 June 2021, the Institute for Human Rights intervened in support of the applicants in it. Case in question, and on 16 December 2021, two of the UN's special rapporteurs also intervened in the case in support of the applicants.

By order of 15 December 2021, the Eastern High Court rejected the ministry's request to dismiss the case.

It appears from this in particular that:

> "Regardless of the fact that the applicants are not the addressees of the ministry's decision on approval of the development plan, the high court finds on the above background that the applicants are concretely and individually affected by the ministry's approval of the development plan for Mjølnerparken. The fact that the applicants have not at this time been terminated from their rental properties is not found to be capable of leading to a different result. **The High Court has emphasized that a termination is such an intrusive circumstance that the applicants have a legitimate interest in having the question of the validity of the development plan tested before the plan is implemented.** After this, and since what the defendant has otherwise stated regarding the issue of legal interest cannot lead to a different result, the high court finds that the applicants meet the general conditions for legal interest in a review of the validity of the ministry's decision of 10 September 2019 on approval of the development plan and that the Ministry of the Interior and Housing is the proper defendant for a review thereof" (my emphasis)

On 22 December 2021, it was announced that Bo-Vita had entered into an agreement for the sale of two blocks (blocks II and III) with the real estate investment company NREP (**appendix 3**).

The purchase has subsequently been approved by the Citizens' Representation in Copenhagen Municipality at a meeting held on 2 June 2022 (**appendix 4**).

On 7 November 2022, the Eastern High Court decided in case BS-27824-OLR that questions should be submitted to the EU Court of Justice. There has not yet been a ruling on submission.

On 4 January 2023, the Housing and Planning Board approved the sale of Mjølnerparken's squares II and III (**appendix 5**).

All 7 applicants live in blocks II and III, which are included in the sale. Some of the applicants have accepted rehousing in other parts of Mjølnerparken, but with the remark that they only consider the move to be a consequence of the Development Plan's sale of their home.

Applicant 1 has lived in Mjølnerparken since 2005. She is 41 years old. She rents a family home located at Mjølnerparken 42, st. television. (**appendix 6**). She has been terminated from her accommodation and has objected to it, which is currently pending at the housing court in Copenhagen. She studies biotechnology daily. She is a Danish citizen. She lives with her two children at 10 and 13 years old who are also Danish citizens. The family is Muslim.

Applicant 2 has lived in Mjølnerparken since 1995. He is 52 years old. He rents a family home located at Mjølnerparken 30, 3rd tv. (**appendix 7**). He is currently temporarily rehoused. Applicant 2 was born in Lebanon and has Danish citizenship. He lives with his 16-year-old daughter, who was born in Denmark and has Danish citizenship. The whole family is Muslim. The daughter has epilepsy. Applicant 2 works in a full-time position in the local area.

Applicant 3 is 56 years old and has lived in Mjølnerparken since 1987. He rents a family home located at Mjølnerparken 26, 2. tv. (**appendix 8**). He is currently temporarily rehoused. He was born in Pakistan and has Danish citizenship. He works as a freelancer and is also chairman of the branch board in Mjølnerparken. He lives with his wife and their adult daughter who is 22 years old and a student. He and

his family are Muslims. Applicant 3's wife is a Pakistani citizen, while their daughter was born in Denmark and has Danish citizenship.

Applicant 4 has lived in Mjølnerparken since 2007. She rents a family home located at Mjølnerparken 58, 2. th (**appendix 9**), where she lives with her 13-year-old son. She currently works as a pharmacist in a pharmacy. Both she and her son have Danish citizenship. Her son was born and raised in Denmark.

Applicant 5 is 49 years old and has lived in Mjølnerparken since 2014. She rents a family home located at Mjølnerparken 36, 1. tv. (**appendix 10**), where she lives alone. She has been terminated from her residence as of 1 November 2022 by Bo-Vita. She has objected to the termination, which is currently pending at the housing court in Copenhagen. She was born in Denmark and does not have an ethnic minority background. She has a master's degree from the University of Copenhagen in Modern Culture and Cultural Communication and works full-time as a teacher. She is not religious.

Applicant 6 is 44 years old and has lived in Mjølnerparken since 2004. She rents a family home located at Mjølnerparken 34, 4. tv. (**appendix 11**). She has been dismissed from her residence. She has objected to the termination, which is currently pending at the housing court in Copenhagen. She was born in Bosnia-Herzegovina and is not a Danish citizen. She has previously worked as a social and health worker, but was seriously injured in 2017, and is now in a resource course. She is Muslim.

Applicant 7 has lived in Mjølnerparken since 2009. She rents a family home in the part of Mjølnerparken that makes up the senior housing community (**appendix 12**). She has been dismissed from her home, but has objected to the dismissal, which is currently pending at the housing court in Copenhagen. She was born in Denmark and does not have an ethnic minority background. She is unable to walk, but has a strong social connection to Mjølnerparken and the area. She is, among other things, forewoman of Active Elderly in Nørrebro, deputy chairman of the branch board in Mjølnerparken and spokesperson for the senior living community.

All the applicants, apart from Applicant 6, are thus Danish citizens. According to Statistics Denmark, Applicant 5 and Applicant 7 have "Danish origins".

PLACEMENTS

In support of the submitted claim, it is *first* asserted that the Building and Planning Agency's approval of the sale is an expression of direct discrimination on the grounds of race and ethnic origin in violation of § 3, subsection 2, cf. subsection 1, in the Act on Ethnic Equality and EU law, and in violation of Article 14 of the European Convention on Human Rights (ECHR), cf. Article 8, Article 4 of Additional Protocol No. 4 to the ECHR, and Article 1 of Additional Protocol No. 1.

In support of the submitted claim, it is claimed *in the second instance* that the approval constitutes indirect discrimination on the grounds of race and ethnic origin in violation of § 3, subsection 3, cf. subsection 1, in the Act on ethnic equality and EU law, ECHR Article 14, cf. Article 8, Article 4 of Additional Protocol No. 4 to the ECHR, and Article 1 of Additional Protocol No. 1.

In support of the submitted claim, it is done *in the third instance* applicable, that the approval constitutes discrimination on the grounds of race and ethnic origin in the form of a breach of the instruction prohibition in § 3 of the Act on ethnic equal treatment and EU law.

In support of the submitted claim, it is asserted *in the fourth instance* that the approval constitutes a direct violation of Article 8 of the ECHR, Article 4 of Additional Protocol No. 4 to the ECHR, and Article 1 of Additional Protocol No. 1.

1. The legal basis for the Development Plan for Mjølnerparken and approval of the sale of public housing

1.1. The 'ghetto criteria'/'parallel society criteria'

The identification of a public housing area as a "ghetto" was first introduced in the Public Housing Act in 2010 by Act No. 1610 of 22 December 2010, on the basis of the then government's plan 'The Ghetto back to society - A showdown with parallel societies in Denmark' from October 2010.

The play shows, among other things, the following about what characterizes a "ghetto", cf. p. 5 of the play:

> "a high concentration of immigrants means that many continue to be more closely linked to the country and culture they or their parents come from than to the Danish society they live in."

Act No. 1610 of 22 December 2010 introduced, with Section 61 ai of the Public Housing Act, a definition of when it is a "ghetto area".

From the current § 61 a, it appears that a "ghetto area" is understood to mean a physically contiguous public housing section where at least 1,000 residents live and which meets at least two of the following criteria: 1) The proportion of immigrants and descendants from non-Western countries exceeds 50 per cent, 2) The proportion of residents aged 18-64 who are not connected to the labor market or education exceeds 40 per cent. calculated as an average over the last 4 years, 3) Number of convictions for violation of the Criminal Code, the Weapons Act or the Act on euphoric substances per 10,000 residents aged 18 and over exceeds 270 people, calculated as an average over the last 4 years.

With the introduction of the definition of "ghetto areas" in § 61 a, subsection 1, it was determined at the same time in § 61 a, subsection 2, that a list of "ghetto areas" must be calculated and kept every year.

In 2013, the definition of a ghetto area in Section 61 a of the Public Housing Act was amended by Act No. 1609 of 26 December 2013. In the new definition, the three previous criteria are maintained, with the use of 4-year averages being changed to 2-year averages, and two new criteria related to residents' income and education are introduced.

From the comments to Act No. 1609 of 26 December 2013, it appears, among other things, cf. the general comments, section 3.1.2., in Bill No. L 45 of 31 October 2013, that:

> "The current criteria are still of crucial importance. Integration of immigrants and descendants from non-Western countries in the exposed residential areas is a focal point. It is important that residents in the residential areas get along across ethnic origins (…) **A high concentration of citizens with other ethnic origins is thus a signal that there should be a focus on the area** (…)" (my emphasis)

With the introduction of Act No. 1609 of 26 December 2013, a "ghetto area" in § 61 ai of the Public Housing Act was then defined as physically contiguous public housing units with at least 1,000 residents, where at least three of the following criteria are met: 1) The share of immigrants and descendants from non-Western countries exceed 50 per cent, 2) The proportion of residents aged 18-64 who are not connected to the labor market or education exceeds 40 per cent. calculated as an average over the last 2 years, 3) Number of convictions for violation of the Criminal Code, the Weapons Act or the Act on euphoric substances per 10,000 residents aged 18 and over exceeds 270 people, calculated as an average over the last 2 years, 4) The proportion of residents aged 30-59 who only have a basic education exceeds 50 per cent, 5) The average gross income for taxpayers aged 15-64 in the area excluding education seekers make up at least 55 per cent. of the average gross income for the same group in the region.

In March 2018, the government at the time consisting of the Liberals, the Liberal Alliance and the Conservative People's Party published the plan "One Denmark without parallel societies - No ghettos in 2030", where the government presented 22 initiatives aimed at combating "parallel societies", including e.g. higher penalties in certain areas, compulsory day care to ensure knowledge of Danish and targeted language tests in 0th grade, cf. p. 8 of the draft.

From the plan "One Denmark without a parallel society - no ghettos in 2030" it appears, among other things, cf. page 6:

> "The ghettos must go completely. The parallel societies must be dismantled. And we must make sure that new ones do not arise. The very big task of integration must be tackled once and for all, where a group of immigrants and descendants have not embraced Danish values, and isolate themselves in parallel societies."

From the plot, it is further apparent, among other things, cf. "Box 1 - Facts about parallel societies" p. 7:

> "The strong population growth of citizens with non-Western origins has provided fertile ground for parallel societies where Danish values and norms are not the primary ones. It is impossible to put a precise figure on how many people with a non-Western background actually live their lives according to other values and norms. On the other hand, it is possible to establish a number of facts about persons and families with a non-Western background, which indicate that a large proportion live in relative isolation from the rest of society. An analysis from the Ministry of Economy and the Interior shows that 28,000 families with a non-Western background can be said to live in parallel societies. It concerns **ethnic composition** in residential areas, in schools and in day care institutions, participation in education or employment, crime rate, etc. (my emphasis)

The analysis from the Ministry of Economy and the Interior (**appendix 13**) contains the following definition of parallel society, cf. appendix 13, p. 1:

> "A parallel society is physically or mentally isolated and follows its own norms and rules, without any significant contact with Danish society and without a desire to become part of Danish society."

On 9 May 2018, the government at the time entered into an agreement with the Social Democrats, the Danish People's Party and the Socialist People's Party on "Initiatives in the area of housing that counteract parallel societies". The agreement was based on the government's proposal "One Denmark without parallel societies - No ghettos in 2030".

The draft and the agreement contain new criteria for when it is a "ghetto area", including a further distinction in the definition with the introduction of "vulnerable residential areas" and "hard ghetto areas". It appears from the agreement that the criteria for when it is a "ghetto" must be updated and consolidated.

It is stated, cf. the agreement of 9 May 2018 on "Initiatives in the housing area that discourage parallel societies", that the purpose of the update and consolidation is to ensure that the criteria used:

> "(...) is to a greater extent directed at the most important problems, and at the same time it is ensured that the initiatives are targeted at the right residential areas (...)"

By law no. 1322 of 27 November 2018, the definition of a "ghetto area" in Section 61 a of the Public Housing Act was subsequently amended so that it reflected the distinction between "vulnerable residential areas", "ghetto areas" and "hard ghetto areas".

§ 61 a of the Public Housing Act then defines a residential area that fulfills at least two of the previously stated criteria no. 2-5 as a "vulnerable residential area", while a residential area is only categorized as a "ghetto" when the proportion of immigrants or descendants from non-Western countries exceeds 50 per cent.

A "parallel society" becomes a "hard ghetto" when it has for five years fulfilled the conditions in § 61 a, subsection 2, cf. subsection 4.

While the proportion of immigrants and descendants from non-Western countries before the introduction of law no. 1322 of 27 November 2018 could constitute one of the criteria contributing to a residential area being characterized as a "ghetto", it was not a required criterion for , that it was a "ghetto". After the change in the law, this criterion has now become the necessary and thus decisive for a general housing area to be characterized as a parallel society.

This appears from the preparations for Act No. 1322 of 27 November 2018, cf. 2.1.2. in the general comments to bill no. L38 of 3 October 2018, that the distinction between "vulnerable residential areas" and "ghettos" aims to emphasize that:

> "(...) the central challenge in the ghetto areas is the lack of integration of immigrants and descendants from non-Western countries (...)"

It should be noted that the terminology in the public housing law was changed from "ghetto" to "parallel society" by law no. 2157 of 27 November 2021. The law resulted in the "Agreement on mixed residential areas - next step in the fight against parallel society", as of 15 June 2021 was concluded between the government (Social Democracy) and the Left, the Danish People's Party, the Socialist People's Party, the Conservative People's Party and the Liberal Alliance.

The definition of a "ghetto" was not changed by law, and the terms "parallel society" and "ghetto" are thus identical in content. In the same law change, the terminology of a "hard ghetto" was also changed to now be a "transformation area". It appears from the preparatory work that the change is due to the fact that the previous terminology could stand in the way of vulnerable residential areas being able to attract a wider circle of home seekers, cf. the general comments, section 2.2.2, bill no. 23 of 6 October 2021, and see more about this below section 3.1.1.

1.2. The requirement for the preparation and approval of a development plan

It follows from Section 168 a of the Public Housing Act, as inserted by Act No. 1322 of 27 November 2018 on amendments to the Public Housing Act, etc., that the public housing organization and the municipal council must jointly prepare a development plan for a "hard ghetto area" (now "transformation area"). The purpose of the development plan must be to reduce the share of general family housing to no more than 40 per cent by 1 January 2030. of all homes in the "hard ghetto area" in question.

Since it is only "hard ghetto areas" that will be covered by the requirement to draw up a development plan according to section 168 a, the requirement to reduce the share of public family housing will only apply to those housing areas that have been characterized as "at risk" for four years ", cf. Section 61 a, subsection of the Public Housing Act. 1, and which at the same time has had and continues to have a share of over 50 per cent. of descendants and immigrants from non-Western countries.

A development plan can be regarded as an overall outline and road map for how the housing organization and the municipal council, through well-described solutions, will together change a ghetto area, so that the proportion of public family housing in the area is reduced to no more than 40 per cent. Reference is hereby

made to the then Minister for Transport, Building and Housing's answer of 6 November 2018 to the Transport, Building and Housing Committee's question no. 16 (General part).

The prepared development plan must be approved by the responsible minister, cf. section 169 a, subsection of the Public Housing Act. 2. In special cases, the Minister may waive the rule that the purpose of the development plan must be to reduce the number of public family homes, cf. subsection 3.

This appears from the comments to the law, cf. the general comments point 1 of bill no. L38 of 10 October 2018, that one of the reasons why housing organizations and municipalities are obliged to draw up a development plan for "hard ghetto areas", where the aim is to reduce the share of general family housing in the area by 40 per cent, is that:

> "[t]he assessment is that a fundamental transformation from a ghetto area into an attractive district requires that general family housing be mixed with other forms of housing in the area (...)"

It also appears in the same place in the general remarks, among other things, that:

> "The reduction in the proportion of general family housing can be done by disposing of family housing, building new housing or establishing commercial areas in the residential area, demolishing family housing, converting family housing into business or rebranding family housing as general youth or elderly housing."

In the same place, it is then stated, among other things, that:

> "In order to make the homes in the exposed residential areas more salable, it is proposed that the housing association can terminate the tenants in connection with the sale of the homes to private individuals."

The detailed rules for the development plans are then laid down in executive order no. 1354 of 27 November 2018 (Executive order on physical change of hard ghetto areas).

Section 13, subsection of the executive order. 1, it appears that the minister's approval of a development plan must be based on a specific assessment. Among other things, emphasis on, 1) that the development plan will result in the required reduction in the proportion of public family housing in the residential area by 2030, 2) that the measures are realistic and suitable for achieving the set goal, 3) that the expected funding is realistic, 4) that the timetable contains information on expected times for the individual initiatives, and 5) that the timetable that has been established is realistic. This appears from § 13, subsection of the executive order. 2. It also appears from section 14, subsection of the executive order. 1, that if the plan cannot be approved, the minister can demand changes to the plan, including on specified points.

It is also stipulated in the executive order on physical change of hard ghetto areas that it is the municipal council that supervises the housing organization's implementation of an approved development plan, cf. section 15, subsection 1. If the development plan is not implemented in accordance with the timetable, the municipal council must make a report about this to the Transport, Building and Housing Agency (now the Building and Planning Agency), cf. subsection 2. The housing organization must once a year notify the Housing and Planning Agency of the status of the implementation of the development plan, which in practice is done by the housing organization submitting the notification to the municipal council, which then forwards it to the agency with its comments, cf. section 16, subsection of the executive order. 1.

If the housing organization and the municipal council do not prepare a development plan that the minister can approve, the minister can notify the housing organization of an order to dismantle the hard ghetto area. The minister can also do this if an otherwise approved development plan is not implemented in accordance with the plan. This follows from Section 168 b, subsection of the Public Housing Act. 1, which was also introduced by Act No. 1322 of 27 November 2018. The housing organization and the municipal

board must then jointly prepare a settlement plan, cf. § 168 b, subsection 2. If the housing organization does not liquidate the ghetto area after being ordered to do so, the minister initiates necessary measures for state takeover of the affected departments with a view to liquidation, cf. section 168 b, subsection 4.

It finally follows from Section 168 a, subsection of the Public Housing Act. 5 and 6, that when a residential area is covered by the requirement for the preparation and implementation of a development plan, the special rules that apply to these areas apply until the development plan is implemented. PCS. 5 and 6 were introduced on 8 June 2021 by law no. 1167, and mean that even if an area can no longer be considered a "ghetto", an already approved development plan can and should be implemented.

1.3. Approval of sales

As mentioned, it follows from the Development Plan that after the completion of the first stages of the comprehensive plan, the Development Plan will follow up by reducing the share of family homes to 40 per cent, cf. appendix 1, page 3. It also follows from the Development Plan that, for reasons for saleability and operability, it will be aimed for sales to take place collectively and in whole units or carts.

Thus, it has always been part of the Development Plan that part of Mjølner Park should be sold.

In this connection, it follows from the Ministry of Transport and Housing's approval of 10 September 2019 (**appendix 14**) that:

> "Attention is drawn to the fact that, with my approval of the development plan, no support has been granted from the Landsbyggefonden for implementing the development plan, **just as the ministry has not approved the sale or demolition of homes in the area, cf. Section 27, subsection of the Public Housing Act. 2 and § 28, subsection 3.** " (my emphasis).

In this connection, it follows from Section 27, subsection of the Public Housing Act. 2, 1st point, that the subsequent disposal of properties, which include public housing, must be approved by the minister.

In connection with this, it follows from § 1 of executive order no. 945 of 21 June 2022 on the tasks and powers of the Housing and Planning Agency as well as access to appeals in the housing and construction area, that the Housing and Planning Agency takes care of the administration and regulation of the delegated in chapter 2 of the executive order parts of the construction area.

According to section 2, subsection 1, the powers are exercised according to, among other things, section 21, subsection 2. in the Act on public housing etc. by the Housing and Planning Agency.

The final approval of the specific sale agreement of public housing has thus been delegated to the Housing and Planning Agency, which also on 4 January 2023 approved the sale of blocks II and III in Mjølnerparken.

2. The legal framework for the prohibition of discrimination

2.1. Act on ethnic equal treatment and EU law

The Council's directive of 29 June 2000 on the implementation of the principle of equal treatment for all regardless of race or ethnic origin (directive 2000/43), is implemented in Danish law by the Act on ethnic equal treatment, cf. executive order no. 438 of 16 May 2012.

The Act on ethnic equal treatment aims to prevent discrimination and promote equal treatment of everyone regardless of race or ethnic origin, cf. § 1. The Act also aims to implement parts of Directive 2000/43.

The Act on Ethnic Equality applies, in accordance with Directive 2000/43, to all public and private undertakings, as far as social protection is concerned, including social security and health care, social

benefits, education and access to and delivery of goods and services, including housing , which is available to the public, cf. § 2.

In case C-391/09, Runevič-Vardyn and Wardyn, the Court of Justice of the European Union has stated that Directive 2000/43 expresses the principle of equality, which is one of the general principles of EU law and which is recognized in Article 21 of the European Union Charter of Fundamental Rights, cf. paragraph 43 of the judgment. For this reason, the EU Court emphasized that the scope of the directive must not be interpreted restrictively.

Pursuant to Section 3 of the Act on Ethnic Equality, it is illegal to subject another person to direct or indirect discrimination on the basis of that person's or a third party's race or ethnic origin.

Direct discrimination exists when, due to race or ethnic origin, a person is treated less favorably than someone else is, has been or would be treated in a similar situation, cf. Act on ethnic equal treatment § 3, subsection 2. It is not possible to justify direct discrimination, and it is therefore also irrelevant whether there is an otherwise objective reason for the discrimination.

Indirect discrimination exists if an apparently neutral provision, condition or practice will place persons of a particular racial or ethnic origin at a disadvantage compared to other persons, unless the provision, condition or practice in question is objectively justified by a factual aim and the means to achieve it are appropriate and necessary, cf. Act on ethnic equal treatment § 3, subsection 3.

In addition, there is discrimination in violation of § 3, subsection 1, in the Act on ethnic equal treatment, if an instruction has been given to discriminate on the basis of race or ethnic origin. This follows from § 3, subsection 5.

It should be noted that it has no bearing on whether there is discrimination on the grounds of race or ethnic origin according to Section 3 of the Act on ethnic equal treatment, whether the persons who claim the discrimination are themselves of the relevant race or ethnic origin . What is decisive is that race or ethnic origin is the element underlying the inferior treatment, cf. the judgment of the European Court of Justice in case C-83/14, Nikolova v. CHEZ, paragraphs 50-60.

It is also not relevant whether the discrimination was motivated by a desire to discriminate on the basis of race or ethnic origin or not. This applies to both direct and indirect discrimination, cf. report no. 1422/2002 on the implementation in Danish law of the directive on ethnic equal treatment, p. 41.

If a person who considers himself to have been violated pursuant to Section 3 subsequently demonstrates factual circumstances which give rise to the presumption that direct or indirect discrimination has been practiced, it is the responsibility of the other party to prove that the principle of equal treatment has not been disregarded.

Finally, it must be noted that the provisions of Directive 2000/43, as also stated above regarding the judgment of the European Court of Justice in case C-391/09, Runevič-Vardyn and Wardyn, must be interpreted and applied in such a way that they respect the rights, comply with the principles and promotes the application of the Charter of Fundamental Rights of the European Union (the Charter), cf. Article 51 of the Charter.

In addition to Article 21 of the Charter, which codifies the basic principle of non-discrimination, it follows from Article 7 of the Charter that everyone has the right to respect for his private and family life, his home and his communications. From the explanations to the Charter, it appears that Article 7 of the Charter corresponds to the rights that follow from Article 8 of the European Convention on Human Rights (ECHR). The Charter contains in Article 34, paragraph 3, also a right to social assistance and housing allowance, which must ensure a dignified existence for all who do not have sufficient means.

2.2. The European Convention on Human Rights

Article 14 of the ECHR contains a prohibition against discrimination, as this provision must ensure that the enjoyment of the rights and freedoms of the ECHR can take place without distinction due to gender, race, colour, language, religion, political or other beliefs, national or social origin , belonging to a national minority, wealth, birth or any other circumstance.

The list of prohibited grounds of discrimination is not exhaustive.

ECHR Article 14 applies when the case falls within the scope of one or more of the rights of the ECHR, without it being required that there has been a violation of the material provision of the ECHR.

In this case, the case falls within the areas protected under ECHR Article 8, ECHR Additional Protocol No. 1, Article 1, and ECHR Additional Protocol No. 4, Article 2.

Article 8 ECHR protects against arbitrary interference with the individual's right to respect for his private and family life, his home and his correspondence. Intervention by a public authority in ECHR art. 8 is only permitted if it can be justified according to subsection (1) of the provision. 2, which requires that the intervention is based on national law and is necessary in a democratic society for the sake of one of the legitimate purposes listed in the provision.

Whether a location constitutes a 'home' according to ECHR Article 8 depends on the actual circumstances, in particular the presence of a sufficient and continuous link to a specific place, cf. judgment of 17 October 2013, Winterstein et al. v. France (27013/07), paragraph 141 with references to other case law. An eviction order thus constitutes an intervention in the individual's right to respect for his home, even if the eviction order has not yet been implemented, cf. judgment of 12 June 2014, Berger-Krall et al. v. Slovenia (14717/04), paragraphs 254 and 265, and judgment of 22 October 2009, Paulic v. Croatia (3572/06), paragraph 38.

An eviction from one's home will not only constitute an intervention in the individual's "home", but also in the right to private and family life, if the eviction may have negative consequences for the individual's social and family ties, cf. judgment of 24 April 2012, Yordanova etc. v. Bulgaria (25446/06), paragraph 105.

ECHR Additional Protocol No. 1, Article 1, entitles every person to the undisturbed enjoyment of his property. No one may be deprived of his property except in the interests of the public good and in accordance with the cases laid down by law and the conditions laid down by law.

The ECtHR has recognized that tenancies can be protected by Article 1 of the Additional Protocol, cf. Judgment of 24 June 2003, Stretch v United Kingdom (44277/98), paras 32-35.

ECHR Additional Protocol No. 4, Article 2, paragraph 1, provides that everyone who is lawfully present in the territory of a State, within that territory has the right to move freely and to freely choose his residence. The right to freely choose one's residence may only be restricted when it is in accordance with the law and is necessary in a democratic society for the purposes of national security or public safety, for the maintenance of public order, the prevention of crime, the protection of health or morals, or for the protection of the rights and freedoms of others, cf. Article 2, subsection 3. In special areas, the right to freely choose one's place of residence can also be restricted if it is in accordance with the law and justified for reasons of the common good in society, cf. Article 2, subsection 4.

3. The Housing and Planning Agency's concrete approval of the sale of blocks II and III in Mjølnerparken on the basis of the Development Plan and the issue of discrimination

3.1. Direct discrimination

In support of the submitted claim, it is first asserted that the Housing and Planning Agency's approval of the sale of blocks II and III in Mjølnerparken constitutes direct discrimination in violation of § 3, subsection 2, cf. subsection 1, in the Act on Ethnic Equality, and in violation of ECHR Article 14, cf. Article 8, Article 4 of Additional Protocol No. 4 to the ECHR, and Article 1 of Additional Protocol No. 1 to the ECHR.

The Housing and Planning Agency's approval, which is based on the Development Plan, initially appears to be covered by the scope of application of the Act on Ethnic Equality, since it is an approval of a plan that is linked to a public enterprise, as far as the applicants' access to and preservation of a housing that is accessible to the public.

According to the Public Housing Act, the public housing organizations are thus tasked with making suitable housing available to everyone who needs it at a reasonable rent, as well as giving the residents influence over their own housing conditions, cf. Section 5 b of the Public Housing Act.

3.1.1. Inferior treatment

As a result of the sale of Mjølnerparken, which the Housing and Planning Agency has approved, all applicants are treated less favorably due to race or ethnic origin than residents of other public housing areas that are not classified as a "hard ghetto".

This is a question of inferior treatment of the applicants, because due to the sale of squares II and III in Mjølnerparken, which has a background in the Development Plan, the validity of which is under review by the Eastern High Court, they have been or are about to be suspended from their current home. If Mjølnerparken had not been categorized as a "hard ghetto", the applicants would not be in a situation where they have been or are about to be evicted from their home, as in that case there would not have been a requirement to draw up a development plan with a reduction in the number of family homes according to § 168 a of the General Housing Act, which has resulted in the sale process of blocks II and III.

The use of the term "ghetto" for the applicants' homes further implies that the applicants are stigmatized as "ghetto" residents, a term which the then housing minister has recognized as being negative and affecting the residents, cf. statement to Danmarks Radio (appendix 15 **)** .

This is supported by the change in terminology that took place by Act No. 2157 of 27 November 2021. It thus appears from the preparatory work, cf. Bill No. L23 of 6 October 2021, section 1:

> "Furthermore, it is proposed to update the parallel society legislation's terminology so that the term ghetto is no longer used. Use of the term can counteract the intention of the parallel community effort, which is to integrate and develop burdened housing areas to make them attractive to a wider circle of housing seekers."

This is further stated in the bill's section 2.2.2. on the Ministry of the Interior and Housing's deliberations on the terminology change:

> "Experience shows that the terminology used can stand in the way of vulnerable residential areas attracting a wider circle of home seekers."

Although the terminology has now changed so that the word "ghetto" is no longer used, the terminology is still stigmatizing, which also applies to the more general problematization and stereotyping of those with a "non-Western" background. With various ghetto packages, successive governments have attached negative connotations to the term "non-western immigrants and descendants", such as a lack of will to work and integrate into Danish society and implied that this group of citizens is not "Danish". This is supported by the fact that the plan "One Denmark without a parallel society - No ghettos in 2030" i.a. appears, cf. p. 4 of the draft:

> "A parallel society has arisen among people with a non-Western background. Far too many immigrants and descendants have ended up with no connection to the surrounding society. Without education. Jobless. And without knowing enough Danish."

And further, cf. p. 5 of the play:

> "We have got a group of citizens who do not take Danish norms and values to heart. Where women are considered less valuable than men. Where social control and lack of equality set narrow limits for the individual's free expression."

Also, cf. p. 6 of the play:

> "There is only one way. The ghettos must be completely gone. The parallel societies must be dismantled. And we must make sure that new ones do not arise. The very big task of integration must be tackled once and for all, where a group of immigrants and descendants have not embraced Danish values, and isolate themselves in parallel societies."

These circumstances are also emphasized in the general comments to Act No. L 38 of 3 October 2018, section 2.6.2., where it appears, among other things, that:

> "There is a need to change the composition of residents in the vulnerable residential areas, where a high proportion of the residents are outside the labor market and where many are on transfer income. **It is especially here that many of the residents – often immigrants from non-Western countries and descendants of immigrants – live in isolated enclaves and do not sufficiently adopt Danish norms and values (...)" (my emphasis**)

This negative and let alone focus on residents' background as "non-Western immigrants and descendants" is still valid, which i.a. is supported by the Ministry of the Interior and Housing's initiative "Mixed residential areas - *next step in the fight against parallel societies* ", of which, among other things, appears, cf. p. 7 of the play:

> "Over the past 20 years, a wedge has grown which is a barrier to the development of the mixed city. Large exposed housing areas have arisen, where many immigrants with a non-Western background lived.
>
> […]
>
> When non-Western immigrants are concentrated in certain residential areas and surrounding schools and daycare centers, it hinders integration and increases the risk of religious and cultural parallel communities emerging. It is one of the biggest structural challenges, which is the foundation of the Danish welfare society. Ethnic and social segregation must be fought.
>
> In the government, we will work to ensure that no more than 30 per cent live within the next 10 years. Non-Western immigrants and descendants in residential areas in Denmark."

In the UN rapporteurs' urgent message to the government, cf. appendix 2, it is emphasized that the language used in the "Ghetto Package" must be considered to stigmatize persons who belong or are perceived to belong to Denmark's minority groups due to race, ethnic origin or religion , increasing the risk of violence and hate crimes, excessive policing, and the implementation of laws and policies that entrench ethnic inequality.

It should be noted that the discrimination expressed here is comparable to the factual circumstances that existed in the judgment of the European Court of Justice in case C-83/14, CHEZ Razpredelenie Bulgaria, where the European Court of Justice found that a practice according to which electricity meters were only set up at elevated heights in areas with a high concentration of residents of Roma origin constituted inferior treatment, because such a practice was in itself offensive and stigmatizing, cf. paragraph 87.

This further emphasizes that the threat of termination, including the terminations that a number of the applicants have already received, which have a background in the Development Plan and which are implemented in connection with the defendant's approval of the sale, constitute inferior treatment in the sense of the Act on Ethnic Equality.

The legislation underlying the approval of the sale and its impact on fundamental rights is also referred to by, among others, The UN Committee on Social, Economic and Cultural Rights ("CESCR"), the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities ("ACFC"), the UN Committee on the Elimination of All Forms of Racial Discrimination ("CERD"), the European Commission v. Racism and Intolerance ("ECRI"), and, as mentioned above, three of the UN's special rapporteurs.

It is thus noted that already in 2012, in the report on Denmark of 22 May 2012, it was pointed out by ECRI that the use of the word "ghetto" was problematic because it stigmatizes minority groups. Likewise, both CESCR in its concluding observations of 12 November 2019 (UN doc. E/C.12/DNK/CO/6) and ACFC in its report of 29 January 2020 regarding fifth monitoring period (ACFC/OP/V(1019)003), expressed concern about discrimination in relation to the use of the word "non-Western background" and called for this to be addressed. ACFC has also noted that the inclusion of "descendants" sends a signal that can have a negative effect on these persons' sense of belonging and being an integrated part of Danish society.

3.1.2. Similar situation

All the applicants are in a similar situation to residents of other public housing areas, which are not covered by the requirement to draw up a development plan, which has led to the sale of blocks II and III, because the areas are not classified as a "hard ghetto".

The applicants are thereby not least in an identical situation with public housing areas, which are classified as a "vulnerable residential area" according to Section 61 a, subsection of the Public Housing Act. 1, and has fulfilled the conditions for this for four years or more. The only thing that separates Mjølnerparken from such "exposed residential areas" according to Section 61 a, subsection of the Public Housing Act. 1, is the proportion of "non-Western immigrants and descendants" residing in the area.

An example of this is the Byparken/Skovparken in Svendborg, which in 2019 was on the government's list of "vulnerable residential areas". 1,422 residents live here compared to 1,659 residents in Mjølnerparken. Byparken/Skovparken has 50.5% of residents outside the labor market compared to 38% in Mjølnerparken. The Byparken/Skovparken area has 1.88% convicts against 2.02% in Mjølnerparken. The Byparken/Skovparken area has 68.9% residents with a primary school education compared to 75.2% in Mjølnerparken. Finally, the average gross income is 58.6% for taxpayers aged 15-64, excluding education seekers, in the Byparken/Skovparken area, while it is 49.6% for the same group in Mjølnerparken. Refer to **appendix 16** , page 6.

The city park/Skovparken in Svendborg has thus largely had the same socio-economic challenges for the past four years. Byparken/Skovparken was on the government's "Ghetto List" in 2015 and 2016. The area was removed from the list in 2017, as it then only met two of the criteria set forth. After the change in the law in 2018, the area was included in the list of "vulnerable residential areas", where it also appeared in 2019. The city park/Skovparken in Svendborg has in all these years had less than 50% of residents with "non-western" origins.

Despite the fact that the Byparken/Skovparken area is in a similar situation with regard to socio-economic conditions etc. like Mjølnerparken, and has been for the last four years, the residents of Byparken/Skovparken do not risk losing their homes as a result of a development plan, as Byparken/Skovparken has not had more than 50% residents of "non-western" origin in recent years four years.

The Danish Housing and Planning Agency's approval of the sale is thus seen to put the applicants at a disadvantage compared to tenants in other – otherwise comparable – public housing areas.

The background to the fact that the applicants are thus treated inferior to others is thus seen to be linked to the concepts "race or ethnic origin", which are covered by the term "non-Western immigrants and descendants", cf. 3.1.3.

The threat of eviction from or termination of the applicants' homes thus exists primarily because more than 50 per cent. of the residents in Mjølnerparken are defined as "non-western immigrants and descendants", which necessitated the adoption of the Development Plan.

It is hereby argued that the category "non-Western immigrants and descendants" is inextricably linked to race and ethnic origin.

3.1.3. Inextricable connection between "non-Western" origin and racial/ethnic origin

3.1.3.1. Definitions

Although the term "non-Western immigrants and descendants" is not defined in the Public Housing Act, the term has been used by Statistics Denmark since 2002.

The category "non-Western" includes immigrants and descendants from all countries other than the EU (and the UK), Andorra, Australia, Canada, Iceland, Liechtenstein, Monaco, New Zealand, Norway, San Marino, Switzerland, the USA and the Vatican City. Australia and New Zealand are thus not counted as "non-Western", which emphasizes that the Danish definition is not based on the geographical location of the countries. Although the countries in the "Western" category lack geographical coherence, they have one thing in common: All countries have majority populations that are perceived as white.

Immigrants are hereby defined as a person born abroad, whose parents are both either foreign citizens or born abroad. When only one parent is known, an individual is classified as an immigrant if he or she was born abroad and the known parent is a foreign citizen or was born abroad. If no information is available about either parent and the person was born abroad, the person is also considered an immigrant.

A descendant is defined as a person born in Denmark whose parents are immigrants or descendants with foreign citizenship. When only one parent is known, an individual is classified as a descendant if the known parent is an immigrant or descendant with foreign citizenship. If there is no information about either parent, and the person was born in Denmark but is a foreign citizen, that person is defined as a descendant.

The above definition does not include persons who are categorized as being of 'Danish origin', which includes persons where at least one of their parents was born in Denmark and has Danish citizenship. Being born in Denmark does not automatically result in the granting of Danish citizenship, and persons who only have one parent who was born in Denmark, but who is not a Danish citizen, will therefore be covered by the category "descendant", regardless of whether the person himself is born in Denmark and is a Danish citizen.

It should be noted that the term "non-Western immigrants and descendants" is thus not a criterion of nationality, but that it is not only a criterion of country of birth either. Rather, it is a criterion based on the origin of individuals, including the country of birth and citizenship of the parents concerned. The criterion "non-Western immigrants and descendants" is based on a clear division between "Western origin" (referring to an arbitrary group of countries with white majority populations, rather than a well-defined area such as the EU or EFTA) and "non-Western origin". This not only affects those who were born outside the EU and

EFTA, but also people who were born and raised in Denmark. A focus on origin rather than place of birth thereby emphasizes that the criterion "non-Western" is based on hereditary characteristics rather than neutral factors such as country of birth.

It is noted against this background that classification as "non-Western immigrant or descendant" is thus not comparable to the concept of "country of birth", which the EU Court of Justice in case C-668/15, Jyske Finans A/S, found does not rest directly on a specific ethnic origin, cf. paragraphs 20-23 of the judgment.

Even if, by definition at Statistics Denmark, the criterion "irregular immigrants and descendants" does not say anything directly about a person's race or ethnic origin, it is noted that it is not the definition of a term that is decisive for whether there has been direct discrimination against because of race or ethnic origin. What is decisive, on the other hand, is that ethnic origin or race has had an impact on the implementation of that measure – i.e. the setting of a criterion – which entails inferior treatment of a person.

In this connection, the applicants claim that the criterion "non-Western immigrants and descendants" must be viewed and assessed in the context in which it is used. This view is supported by the judgment of the European Court of Justice in case C-54/07, Feryn, where the European Court of Justice found that it constituted direct discrimination on the grounds of race or ethnic origin if a company had expressed in public statements that the company wanted to hire an installer, but that foreigners could not be hired as a result of the customers' unwillingness to give foreigners access to their residence during the execution of the work. The European Court of Justice thereby made an assessment of the concept of "foreigners", which was not further defined, in the specific context in which it had been used, and found that it was linked to the concepts of "race and ethnic origin".

3.1.3.2. Reference to ethnic origin

It appears from the mention etc. that has been linked to the launch and implementation of the so-called former "Ghetto packages" and its expansion in 2021, that the term "ethnic origin" is used in connection with the term "non-Western".

Among other things. it follows from the "Government's strategy against ghettoization" from May 2004, six years before the term "non-western" was introduced in the Public Housing Act, that the regulation of residential areas etc. was linked, among other things, to to the ethnic origin of residents. The term ethnic origin is thus used 36 times in the play, and the term "ethnic enclaves" is used to describe "ghetto areas" with a high proportion of unemployed immigrants, refugees and descendants.

It is also apparent from the Program Board's report "From exposed residential area to whole district" from November 2008 in section 4.5.1, about the development in the composition of residents in selected exposed residential areas, the following is mentioned:

> "With regard to the purely demographic conditions, such as the distribution of age groups, household types and **ethnic origin** , the current situation in the areas is first and foremost described, while the development in recent years is only explained to a limited extent." (my emphasis)

The Program Board hereby unequivocally connects the term "non-Western immigrants and descendants" directly with ethnic origin. It should therefore also be noted that the report's section 4.4.5, which forms a subsection of the statistical description of the composition of residents in selected residential areas, has the heading "Ethnicity", and the section focuses primarily on a description of the residents' "non-Western" or "Western ” origin.

In the Program Agency's report, it is clearly indicated that "non-Western immigrants and descendants" are considered one coherent ethnic origin, which is also separate from "Danish origin", which i.a. is supported by the following, which appears on page 61 of the report:

> "It appears from the figure that the proportion of residents without a labor market connection in both age groups is somewhat higher for immigrants and descendants from non-Western countries than for residents of Danish origin. For both **ethnic groups** , the proportion without a labor market connection is somewhat higher for the older residents than for the younger ones." (my emphasis)

The same mention and understanding of the connection between the concepts also follows from Act No. 1609 of 26 December 2013, from which it also appears that the criterion was important to ensure focus on areas with a high concentration of residents of other ethnic origins.

In the general comments to bill no. L 45 of 31 October 2013, point 3.1.2., thus states the importance of residents in the housing areas in question getting along with each other "across ethnic origin".

That the criterion "non-western immigrants and descendants" as used in the Public Housing Act is directly and inextricably linked to race and ethnic origin is further supported by the fact that the government at the time, which was behind the initiative to amend the Public Housing Act in 2018 with the plan "One Denmark without parallel societies – no ghettos in 2030", in the play explicitly refers to ethnic origin as the decisive criterion.

It is thus stated, cf. Played out "One Denmark without parallel societies - no ghettos in 2030", page 14, among other things, that:

> "The efforts so far have primarily focused on social housing efforts, which have not been shown to be able to significantly change the characteristics of the resident composition. It has not succeeded in moving the area sufficiently in relation to the ghetto list's criteria regarding labor market attachment, education, **ethnic origin** or income level. (…)" (my emphasis)

Furthermore, it is noted that the then housing minister in P1 Orienteering on 27 May 2020, after the initiation of the trial at the Eastern High Court in case no. BS-27824-OLR), on a question whether the difference between the fact that a vulnerable residential area such as Byparken/Skovparken in Svendborg does not have to reduce the number of homes, while this is the case for Mjølnerparken, is not due to an excessive focus on where people come from , replied:

> "Yes, and that is because this legislation was created to combat parallel societies. We don't want a society like the one in New York, where people of Chinese background live in one neighborhood and people of African American background live in another neighborhood. We want people to meet each other across **ethnic lines** (…)" (my emphasis)

It also follows from the government's proposal "Mixed residential areas - next step in the fight against parallel societies", section 1.1., from March 2021, that "ethnic and social separation" must be combated and that the government will continue work to strengthen integration with new initiatives, which can create mixed cities where people live together across "economic, social and ethnic divides."

Several places in the play are statistical data for "ethnic Danes" compared to "non-Western immigrants and descendants" regarding e.g. unemployment and education. The category "immigrants and descendants from non-Western countries" is described and considered consistently as one coherent ethnic group, regardless of the fact that the grouping by definition can potentially be considered to include ethnic groups from many different countries. That the category is regarded as one coherent ethnic group is further

illustrated by the fact that an increasing number of laws, regulations, etc. specifically address and seek to influence this group (including, but not limited to, the measures under the "Ghetto Package").

3.1.3.3. Stereotyping and presumed racial or ethnic origin

It should be noted that discrimination on the basis of presumed racial or ethnic origin linked to individuals or groups of residents is also prohibited under the Ethnic Equal Treatment Act, cf. report no. 1422/2002, pp. 292 and 294, and the EU Commission's proposal for the ethnic equality directive (COM(1999) 566 final), p. 6.

The EU Court of Justice is also seen in, among other things in its practice to recognize that the inclusion of stereotypical and generalizing considerations linked to ethnic origin are problematic, cf. case C-83/14, CHEZ Razpredelenie Bulgaria paragraph 82.

Even if the criterion "non-Western immigrants and descendants" is not by definition directly and inextricably linked to race or ethnic origin, it is argued that this criterion used in the public housing act's characterization of a ghetto area in section 61 a of the act, on the basis of the then government's presumption of the ethnic origin of the residents in public housing areas with a "non-western" background, which was wanted to be regulated, constitutes discrimination. This is supported i.a. of the fact that the government at the time, in the play "One Denmark without a parallel society - no ghettos in 2030", links the concept of "non-Western" with matters relating to ethnic origins such as culture and religion.

In the play out "One Denmark without a parallel society – no ghettos in 2030", it is thus made clear that the measures in the Ghetto Package, including the presentation and adoption of Bill No. L 38 of 10 October 2018 on amending the Act on public housing etc., are aimed at those who are considered to have different "norms" and religious values than the majority in Denmark - who are white and Christian. This is repeated in the general comments in Act No. L 38 of 3 October 2018, section 2.6.2. Compare the definition of "non-western origin" with the associations that this term has been given in Denmark, it shows a practice according to which non-Christians are perceived in a racial context.

By using the criterion "non-western immigrants and descendants" as the decisive criterion for a residential area to be classified as a "ghetto" (now parallel society) and after four years as a "hard ghetto" (now transformation area), the Development Plan and the inferior treatment resulting from the approval of the Development Plan, thus directly based on race and ethnic origin. The applicants are therefore treated inferiorly on the basis of a measure based on and implemented according to the criteria "race and ethnic origin". This applies regardless of whether the Development Plan also affects persons of a certain racial or ethnic origin or also affects persons who do not possess such characteristics, e.g. as applicant 5 and applicant 7, cf. case C-83/14, CHEZ Razpredelenie Bulgaria, paragraph 95.

It is thus argued that there are proven factual circumstances that give rise to the presumption that discrimination has been practiced in violation of Section 3 of the Act on Ethnic Equality and EU law. When factual circumstances have been proven, it is then up to the Housing and Planning Agency to prove that the approval of the sale of squares II and III on the basis of the Development Plan is based on objective conditions without any connection to the criteria of race and ethnic origin.

Against this background, it is argued in summary that the Housing and Planning Agency's approval of the sale of squares II and III in Mjølnerparken on the basis of the Development Plan constitutes direct discrimination in violation of § 3 of the Act on ethnic equal treatment and EU law.

It should be noted that in its latest country report on Denmark of 12 November 2019, the UN Committee for Economic, Social and Cultural Rights stated the following regarding Act No. 1322 of 27 November 2018, cf. the report's page 7, point 51:

> "The Committee is also concerned that the law is discriminatory as it introduces the categorization of areas as "ghettos", defined by the proportion of residents from "non-Western" countries. Thus it not only results in discrimination based on ethnic origin and nationality, but also further marginalizes those residents (…)"

Based on this, the Committee recommends i.a. to remove the criterion "non-western", and states, cf. page 8, point 52(a):

> "Remove the definitional element of a "ghetto" with reference to residents from "non-Western" countries, a discriminator on the basis of ethnic origin and nationality (...)"

In its fifth opinion on Denmark of 7 November 2019, the Advisory Committee for the Framework Convention on the Protection of National Minorities has expressed serious concern about the use of the terms "Western" and "non-Western" immigrants and descendants. Special use of the criterion "non-Western immigrants and descendants" to designate when a "ghetto area" is involved, and the enforcement of special rules in these areas, e.g. the reduction of the share of general family housing, led to the following recommendation from the Advisory Committee, cf. paragraph 46 of the opinion:

> "The Advisory Committee urges the authorities to reconsider the concepts of 'immigrants and descendants of immigrants of Western origin' and 'immigrants and descendants of immigrants of non-Western origin', both based on the arbitrary aggregation of statistics related to place of birth or citizenship, and their subsequent application in the framework of the so-called "Ghetto law" leading to possible discrimination on the grounds of citizenship, ethnic affiliation and place of residence."

It also appears from CERD, opinion from February 2022, and ECRI in opinion from June 2022, that the implemented legislation is problematic.

3.2. Indirect discrimination

In support of the allegations made, it is argued in the second instance that the approval of the sale of square II and III, which stems from the Development Plan, constitutes indirect discrimination on the grounds of race and ethnic origin in violation of § 3, subsection 3, cf. subsection 1, in the Act on ethnic equal treatment and EU law, ECHR Article 14, cf. Article 8, Article 4 of Additional Protocol No. 4 to the ECHR, and Article 1 of Additional Protocol No. 1 to the ECHR.

To the extent that it is assumed that the criterion "non-western immigrants and descendants" is a neutral criterion which, in its application in the Public Housing Act, is not directly and inextricably linked to race and ethnic origin, it is argued that the Housing and Planning Agency approval of the sale of squares II and III, in particular will place persons of certain race and ethnic origin at a disadvantage compared to other persons.

In this connection, it is argued that approval of the sale of square II and III is not objectively justified by a factual purpose. Even if it is assumed that a legitimate purpose is being pursued, it is claimed that the means (disposal) to fulfill this purpose are not appropriate and necessary.

3.2.1. People of a particular race or ethnic origin compared to other people

As stated above, it is argued that the persons who are categorized as being of "non-Western" origin are in themselves considered to be of a certain racial or ethnic origin. 80.5 per cent of the residents in Mjølnerparken are of "non-western" origin.

To the extent that the category, as it appears from and is used in the Public Housing Act, cannot in itself be assumed to be linked to persons and groups of specific racial or ethnic origin, the category is seen to affect persons from Turkey, Syria, Iraq, Libya, Pakistan in particular , Bosnia and Herzegovina, Iran, Somalia, Afghanistan and Vietnam, where people connected to these countries together make up more than half of all "non-Western immigrants and descendants", cf. the Ministry of Immigration and Integration's report "INTEGRATION: STATUS AND DEVELOPMENT 2019 - Focus on non-Western countries", figure 1.3, page 8, point 2.3 (excerpt attached as **appendix 17**).

This is further supported by the fact that in the analysis from the Ministry of the Economy and the Interior from February 2018, it is stated that out of the 74,000 people with a non-Western background, who according to the analysis can be said to belong to a "parallel society", 40 per cent live in in a general residential area where many residents with a non-Western background live. It also appears, among other things, cf. appendix 14, p. 2, that:

> "Persons of Turkish origin are numerically the largest **ethnic group** . Relatively speaking, people of Somali or Lebanese origin are among the **ethnic groups** in which most are included. 44 per cent of all with Somali origin and 41 per cent. of all those of Lebanese origin are included in the group." (my emphasis)

In relation to Mjølnerparken specifically, 44 per cent of Mjølnerparken's residents, persons originating from or Libya (28 per cent) and Somalia (16.4 per cent). As far as Libya is concerned, 95 per cent of the population the same ethnic group, while for Somalia it is 85 per cent. who belong to the same ethnic group.

It must therefore be considered that factual circumstances have been demonstrated that give rise to the presumption that the approval of the development plan constitutes indirect discrimination, as persons of Arab ethnic origin and Somali ethnic origin are placed at a disadvantage compared to other persons.

According to the comments on the Act on ethnic discrimination, it is not a requirement that the criterion only affects persons of a single specific ethnic origin. A criterion which in practice places persons of different ethnic origins at a disadvantage compared to other persons may also entail a breach of the prohibition against indirect discrimination, cf. report no. 1422/2002, p. 296.

3.2.2. Inferior treatment

As described in more detail above, in the section on direct discrimination, there is inferior treatment of the applicants in the form of the inflicted stigmatization and the risk etc. to be evicted from their homes.

3.2.3. Objective justification and factual purpose

Against this background and with reference to the factual circumstances which give rise to the presumption that the apparently neutral criterion of "non-Western immigrants and descendants" places persons of one or more particular ethnic origins or race inferior to other persons, this discrimination - which is expressed in the Housing and Planning Board's approval of the sale arising from the Development Plan - only be legal if the use of the criterion is objectively justified by a factual purpose, and that the means to achieve this purpose are appropriate and necessary, cf. Act on Ethnic discrimination § 3, subsection 3.

According to the practice of the European Court of Justice, the term "objectively justified in a factual purpose" must also be subject to a restrictive interpretation when the discrimination is linked to race or ethnic origin, cf. case C-83/14, Nikolova v. CHEZ, paragraph 112.

In the general comments to Act No. 1619 of 22 December 2010, with which the criterion "immigrants and descendants of non-Western countries" was first introduced into the Public Housing Act, it is, among other things, stated, cf. bill no. 60 of 17 November 2010, section 1:

> "Today there are a number of residential areas which have such great challenges that they fall under the term ghetto areas. These are areas where a large proportion of residents are out of work. Where relatively many residents are criminals and where many with an immigrant background live. In such an area, it can be more difficult for foreigners to integrate into Danish society."

It appears from the comments to Bill No. L 38 of 3 October 2018 that the purpose of a development plan is to reduce the number of family homes in order to make it an – so-called – attractive district, including by mixing housing types and thus changing the composition of residents. Combined with the fact that the underlying purpose of the legislation is to remove the "ghettos", which are defined by having more than 50 per cent "non-western immigrants and descendants", it is claimed that the real purpose of the approval of the Development Plan and the reduction of the proportion of family homes to 40 per cent. is to ensure the eviction of residents with a non-Western background. Such a purpose is not legitimate. This applies in particular when the purpose and the Development Plan have led to the sale of the applicants' home.

Furthermore, CESCR, in its report with concluding remarks in 2019, highlighted Denmark's lack of affordable housing and rising rents exacerbated by private investment and, on this basis, recommended that Denmark increase the number of affordable housing. General family housing is a special Danish form of housing based on principles of democracy, equality and affordable housing for all. Selling them goes against both CESCR's recommendation and other alleged justifications for the legislation, such as the protection of "Danish values" and better socio-economic conditions.

This lack of legitimacy is emphasized by the EU Court of Justice's judgment in case C-668/15, Jyske Finans, where the requirement to send a passport was limited to persons with a country of birth outside the EU. It was further justified by an aim to comply with the EU legal regulation on anti-money laundering. In this case, the changes to the Public Housing Act in 2018 and the Ministry of the Interior and Housing's approval of the Development Plan, which led to the sale, were carried out on a national initiative to proactively and specifically target a certain group of people and force the eviction of these people from a residential area. This therefore does not fulfill a purpose of integration.

In continuation of this, it is argued that even if the Housing and Planning Agency's approval, which is based on the Development Plan, could be regarded as justified by a factual purpose – linked to a change in the composition of residents in a residential area – this follows from the proportionality assessment that must be carried out according to the Act on ethnic equal treatment and EU law, that the means – here approval of the sale of the applicants' home – is not an appropriate and necessary means to achieve the claimed purpose.

It follows from the judgment of the Court of Justice of the European Union in case C-83/14, Nikolova v. CHEZ, paragraphs 118-123, that a measure is only appropriate and necessary if the measure is appropriate to fulfill the purpose, if other appropriate and less intrusive measures would not be able to achieve the claimed purpose, if the disadvantages associated with the contested measure are reasonably proportionate to the purpose pursued, and if the measure is not a too far-reaching intervention in the legitimate interests of the persons concerned.

On this basis, it is argued that even if the reduction of the proportion of family homes in accordance with the Development Plan, which has led to the approval of the divestment, must be considered to pursue a legitimate purpose, there are other and less intrusive measures available . These include e.g. relabelling of family homes to other public housing types, to the extent that the natural eviction takes place and thus not in the case of extensive sales, postponements and terminations.

One such less invasive remedy is, among other things, described in the draft alternative development plan that the branch board in Mjølnerparken prepared and submitted to the Ministry of Transport and Housing on 31 May 2020, but which the Ministry of Transport and Housing rejected. It should also be noted that, according to Bo-Vita's expectations, initiatives initiated before the Development Plan was drawn up, including the comprehensive Comprehensive Plan, would in themselves mean that Mjølnerparken would no longer be included in the "ghetto" category within the foreseeable future.

In continuation of this, it is claimed that the Housing Authority's approval of the sale on the basis of the disputed Development Plan in any case affects the legitimate interests of the applicants and other affected residents to an unreasonable extent, including their fundamental rights under the Charter, especially Article 7 on the rights of individuals to respect for one's privacy and home, as well as the residents' legitimate interest in having access to public housing in the form of their home under circumstances that do not appear offensive and stigmatizing.

It is argued that this is supported by the ECJ judgment in Case C-83/14, Nikolova v CHEZ, where the ECJ stated that end-users of electricity have a legitimate interest in having access to electricity supply in circumstances that have not an offensive or stigmatizing effect, cf. clause 124.

On this basis, it is argued that the Housing Authority's approval of the sale on the basis of the disputed Development Plan does not sufficiently respect the essence of the rights and freedoms recognized in and resulting from the Charter, including Article 21 (prohibition of discrimination). , article 24 (rights of the child), article 25 (rights of the elderly), article 26 (inclusion of people with disabilities), article 34 (social security and housing security) and article 35 (adequate supply of housing; special provision for vulnerable family groups).

It is noted in this connection that the Court of Justice of the European Union has found that the loss of a family home puts the affected family in a particularly vulnerable situation, and that the right to a home in itself is a fundamental right according to Article 7 of the Charter, cf. case C-34/12, Kusinova v. Smart Capital as, paragraphs 63-65, and the ruling of the European Court of Justice of 5 June 2014 in case c-169/14, Sanchez Morcillo and Maria del Carmen Abril Garcia v. Banco Bilbao Vizcaya Argentaria SA , paragraph 11.

In summary, on the basis of the above, it is claimed that the Housing and Planning Agency's approval of the sale of squares II and III constitutes indirect discrimination in violation of § 3 of the Act on ethnic equal treatment and EU law.

In continuation of this - referring to the fact that the ECtHR does not, in relation to ECHR Article 14, distinguish between direct and indirect discrimination - it is claimed that the approval, cf. what is stated under section 3.1., also constitutes indirect discrimination under Article 14 of the ECHR, cf. Article 8, Article 4 of Additional Protocol No. 4 to the ECHR, and Article 1 of Additional Protocol No. 1 to the ECHR.

3.3. Instruction on discrimination

In support of the submitted claim, it is argued in the third instance that the Housing Planning Agency's recommendation and the Ministry of the Interior and Housing's approval of the sale constitute discrimination on the grounds of race and ethnic origin in the form of a violation of the instruction prohibition in Section 3 of the Act on ethnic equality and EU law.

This appears from section 168 a, subsection of the Public Housing Act. 2, in conjunction with § 168 c, subsection 1, that a development plan for a residential area that is categorized as a "transformation area" is only valid when the Ministry of the Interior and Housing has approved the plan.

The housing organization attached to Mjølnerparken, Bo-Vita, together with the Municipality of Copenhagen, is obliged to comply with and implement the Development Plan approved by the ministry.

If the Development Plan is not implemented in accordance with its content, the Ministry of the Interior and Housing has the authority to issue orders to dismantle Mjølnerparken. This follows from Section 168 b of the Public Housing Act. If this order is not complied with, the Ministry of the Interior and Housing has powers to take over the affected departments with a view to liquidating the housing area.

On that basis, it is argued that the Minister's approval of the Development Plan and the approval of the sale actually constitute an instruction to Bo-Vita to discriminate against the applicants by selling off the applicants' homes, which results in the termination of their homes. The instruction is further linked to the area's share of residents with a specific race or ethnic origin as stated above.

The instruction prohibition in § 3 of the Act on ethnic equal treatment must be interpreted in accordance with the practice of the EU Court of Justice linked to the understanding of directive 2000/43. The EU Court of Justice is seen in case C-83/14, Nikolova v. CHEZ, paragraphs 73-74, to have included the UN Convention on the Elimination of All Forms of Racial Discrimination (the Racial Discrimination Convention) as an interpretative contribution.

It follows from the Racial Discrimination Convention's article 4, letter c, that states may not allow public authorities or institutions under the state and municipality to promote or encourage racial discrimination. "To promote" must be understood broadly and includes all attempts to discriminate even without an element of vang, cf. also UN General Assembly, 20th session, official records, 1318th meeting, held on 25 October 1965 in New York, UN document No. A/C.3/SR, paragraphs 14-27.

At the same time, Article 2, letter c, of the Racial Discrimination Convention contains a relevant interpretative contribution to the prohibition of instruction, as it follows from this provision that the participating states must take effective measures to critically review the policy of state and municipal authorities and to amend or repeal all laws and regulations that cause , that racial discrimination occurs or is maintained wherever it occurs. It follows, paradoxically, that the Ministry of Transport and Housing cannot approve a Development Plan which implies that a housing organization must in reality discriminate against residents in a residential area.

Against this background, it is claimed that the Ministry of Transport and Housing's approval of the Development Plan is, overall, in breach of the prohibition against discrimination on the grounds of race or ethnic origin in Section 3 of the Act on Ethnic Equality, as the approval in reality constitutes an instruction to discriminate .

3.4. Article 14 of the European Convention on Human Rights

It is further argued that the Housing and Planning Agency's approval of the sale of blocks II and III in Mjølnerparken constitutes discrimination in the form of direct and indirect discrimination according to ECHR Article 14 in conjunction with Article 8, Article 2 of Additional Protocol 4 and Article 1 of Additional Protocol 1.

It follows from Article 14 of the ECHR that the enjoyment of the rights and freedoms of the ECHR must take place without distinction due to a number of non-exhaustively enumerated reasons, including race, colour, religion, national or social origin.

ECHR Article 14 applies when a concrete situation affects one or more of the rights in the ECHR.

As far as all the applicants are concerned, the approval of the sale of blocks II and III, where their apartments are located, is seen to affect ECHR Article 8 (privacy), ECHR Additional Protocol No. 1, Article 1 (property rights), and ECHR Additional Protocol No. 4 , Article 2 (freedom of establishment).

It is argued that due to the approval of the sale, which is based on the Development Plan, the applicants are being treated differently due to their status as residents of a vulnerable residential area, and thus "other status" as covered by Article 14 of the ECHR.

In addition, as stated above, the applicants' status as residents of a conversion area is inextricably and directly linked to the fact that over 50% of the residents in the residential area have "non-western origins".

It follows in this connection - as stated - that the criterion "non-Western origin" in the Public Housing Act is seen to be directly linked to e.g. race, colour, religion, national and ethnic origin.

The fact that Applicant 5 and Applicant 7 were not allowed to be covered by the applied criterion of "non-Western immigrants and descendants" is in itself irrelevant, as they are covered as a result of their status as residents of a transformation area. It should also be noted that the ECtHR Grand Chamber in its judgment of 19 December 2018, Molla Sali v. Greece (20452/14) has confirmed that "discrimination by association", where a person is treated differently because of another person's circumstances, is covered by the ECHR article 14, cf. paragraph 134 of the judgment.

The applicants are all, as residents of a transformation area, as previously stated, in a comparable situation to residents of other so-called areas with "parallel societies", who have had the same socio-economic challenges for four years or more, but who are not required to reduce the number of family homes pursuant to a development plan.

On this basis, it is claimed that there are and have been proven circumstances which substantiate that the applicants are being treated differently due to the share of the ethnic origin of Mjølnerparken's residents.

It is then the responsibility of the Housing and Planning Agency to demonstrate that the discrimination is justified, and there does not appear to be any information that can support such justification of the discrimination, cf. e.g. judgment of 13 November 2007, DH et al. v. Czech Republic (57325/00), paragraph 177.

In any case, it is argued that the discrimination against the applicants can only be justified if it can be shown that the discrimination pursues a legitimate objective and that this objective is sought to be achieved by the least intrusive means.

In addition, it is noted that the justification of the discrimination must not be linked to matters that directly relate to ethnic origin, cf. e.g. Judgment of 19 December 2018, Molla Sali v. Greece (20452/14), paragraph 135.

In this context, it follows from the practice of the ECtHR that discrimination which is solely or to a decisive extent based on ethnic origin cannot be justified in a modern and democratic society, cf. judgment of 13 November 2007, DH et al. v. Czech Republic (57325/00), paragraph 176.

Even if the criterion "non-Western immigrants and descendants" is not to be regarded as directly and inextricably linked to ethnic origin, its use entails discrimination on grounds of nationality and national origin, which according to the ECtHR can only be justified if there are weighty reasons for the discrimination, cf. a. Judgment of 16 September 1999, Gaygusuz v. Austria (17371/90), paragraph 42.

It thus appears from a memorandum of 10 December 2018 by the then Transport, Building and Housing Agency that it is not appropriate to use the criterion "non-western origin" when specifying public housing, even if the purpose of using the criterion is to change the composition of residents in a residential area and prevent the residential area from becoming a "ghetto", as this would precisely contravene Article 14 of the ECHR.

This supports, in the applicants' opinion, that the criterion cannot be used decisively when implementing a decision that the number of family homes must be reduced with the consequence that the applicants lose their home and residence.

It is further argued that the approval of the sale, which is directly linked to the approved Development Plan and Section 61 a of the Public Housing Act, as amended by Act No. 1322 of 27 November 2018, must be considered based on undocumented assumptions about persons' "origin ” and the difficulties this origin creates for integration.

It is argued against this background that the Housing and Planning Agency's approval of the sale, which is based on the disputed Development Plan, is linked to such general assumptions that cannot legally be included in the justification of restrictions on rights contained in the ECHR.

It follows from the ECHR's judgment of 24 May 2016 in Biao v. Denmark (38590/10), that wishes to improve the integration of "both resident foreigners and resident Danish citizens of foreign descent" by making family reunification difficult for persons with less than 28 years' Danish citizenship was based on, as the EMD states, "rather speculative arguments, especially with regard to when it can generally be said that a Danish citizen has created such strong ties to Denmark that a family reunification with a foreign spouse has the prospect of succeed from an integration perspective," cf. paragraph 125 of the judgment.

The EMD also found that some of the arguments and statements made in the comments to the provisions in question in the law put Danish citizens of non-Danish ethnic origin in a bad light, for example in relation to marriage patterns etc. The ECtHR then found that the Danish government had not sufficiently demonstrated that the discrimination, which was a result of the law in question, was based on objective criteria unrelated to ethnic origin, cf. paragraph 127 of the judgment, which is why the ECtHR ended up finding , that there had been a violation of the complainants' rights according to ECHR Article 14 in conjunction with Article 8. General and preconceived assumptions or prevailing social prejudices in a country cannot thus constitute sufficient justification for discrimination, cf. also the ECtHR's judgment of 22 March 2012 in Konstantin Markin v Russia (30078/06), paras 142-143.

It is claimed that Section 61 a of the Public Housing Act, which is linked to the then Ministry of the Interior and Housing's approval of the Development Plan, which has led to the sale of square II and III, similarly contains speculative elements of integration and lifestyle for "non-Western immigrants and descendants" and general biased assumptions, which is why the sale, which is based on the Development Plan, is not justified on the basis of objective criteria unrelated to ethnic origin.

It should also be noted that the ECtHR in Biao v. Denmark also emphasized in its assessment that several independent bodies had expressed concern about the discriminatory effect of the 28-year rule, cf. paragraph 136 of the judgment, and that there were thus clear indications that , that ethnic origin was motivating for the concrete rule.

The applicants claim that this is also the case, as far as the use of the terms "ghetto" and "non-western" in connection with e.g. rules in the Public Housing Act.

On the basis of the above, it is claimed in summary that there has been a violation of the applicants' rights according to ECHR Article 14 in conjunction with ECHR Article 8, Article 1 of Additional Protocol 1 and Article 2 of Additional Protocol 4.

4. The Housing and Planning Agency's concrete approval of the sale of Mjølnerparken and the European Convention on Human Rights

In support of the submitted claim, it is claimed in the fourth row that the Housing Authority's approval of the sale, on the basis of the disputed Development Plan, constitutes a direct violation of Article 4 of Additional Protocol No. 4 to the ECHR, ECHR Article 8, and Article 1 in Additional Protocol No. 1 to the ECHR.

4.1. Article 2, subsection 1, in Additional Protocol No. 4 to the European Convention on Human Rights and the right to choose residence and residence

It follows from Article 2, paragraph 1, in Additional Protocol No. 4 to the ECHR, Article 2, paragraph 1, that everyone who is lawfully present in the territory of a State has the right within that territory to move freely and to freely choose his residence.

The right to freely choose one's residence may only be restricted when it is in accordance with the law and is necessary in a democratic society for the purposes of national security or public safety, for the maintenance of public order, the prevention of crime, the protection of health or morals, or for the protection of the rights and freedoms of others, cf. Article 2, subsection 3. In special areas, the right to freely choose one's place of residence can also be restricted if it is in accordance with the law and justified for reasons of the common good in society, cf. Article 2, subsection 4.

It is hereby claimed that the applicants, who are all Danish citizens (apart from applicant 6) and reside legally in Denmark, as a consequence of the sale will have their right to freely choose their place of residence restricted, as they no longer have access to housing in the residential area that makes up Mjølnerparken.

It is claimed that this constitutes an interference with the applicants' rights under Article 2, paragraph 1, in Additional Protocol No. 4 to the ECHR.

Boligop The Planning Agency's approval of the sale on the basis of the disputed Development Plan does not thereby uncover circumstances that demonstrate that consideration of the public good or other interests, as listed in Article 2, subsection 3, available.

In its judgment Garib v. The Netherlands (43494/09), the ECtHR assessed restrictions on the access to settle in a residential area in Rotterdam, and considered the concrete restrictions that had been implemented in so-called "hot spot areas" as not in conflict with Article 2 , PCS. 1, in Additional Protocol No. 4 to the ECHR.

The circumstances in Garib v. The Netherlands are essentially different from the circumstances linked to the Housing and Planning Agency's approval of the sale on the basis of the disputed Development Plan, which is linked to Mjølnerparken and the applicants' rights.

Garib v. The Netherlands thus concerned the Dutch referral scheme, which aimed to prevent citizens on certain types of transfer income from moving to residential areas that had been designated as socially disadvantaged. The ECtHR found that there had been no violation of Article 2, paragraph 1, of Additional Protocol No. 4, and thus accepted that it is generally a legitimate purpose and serves the public good to implement restrictions on certain groups of people moving into an area in order to reverse the decline in impoverished urban areas and improve the quality of life in general .

In Garib v. The Netherlands, the ECtHR stated that the state's margin of discretion is wide in social and economic matters, cf. paragraph 139 of the judgment. A significant difference between the Dutch legislation in Garib v. The Netherlands and the rules implemented in the Public Housing Act, which forms the basis of the Development Plan in the present case, however, the Public Housing Act is based on a distinction between "western" and "non-western" residents. In addition, the purpose of changing the composition of residents in exposed residential areas does not constitute the actual purpose of the approval of the Development Plan, as the requirement to reduce the proportion of family homes to a maximum of 40 per cent. only applies to "hard ghetto areas" and not "vulnerable residential areas", which have exactly the same socio-economic conditions and challenges, but with the only difference being the "background" of the residents.

With regard to proportionality, it is noted that the ECtHR in Garib v. the Netherlands emphasized that the Dutch system did not deprive someone of their home or force someone to leave their home, cf. paragraph 144 of the judgment, since it was a matter of regulating new potential tenants' and movers access to housing in the area. The opposite applies to the applicants, who are under an actual and real threat of forced eviction.

The ECtHR further emphasized in the proportionality assessment in Garib v. the Netherlands that the Dutch scheme only affected relatively new residents of the greater Rotterdam area who had lived in the area for less than six years, and that others with residence in the area for more than six years had thus access to move to the area that was subject to restrictions, cf. clause 144.

It is further argued that the concrete procedural guarantees that were present in the Dutch rules are not found in the regulation linked to the Development Plan or in the plan itself, cf. here, for example, that the Dutch competent minister every five years to the parliament reports on the law's effectiveness. It can be seen in relation to the Development Plan, which has been approved, that the Ministry of the Interior and Housing has not incorporated any follow-up, as it is assumed that only implementation of the plan, i.e. sale, can change the conditions in the area, just as failure to comply with the plan entails a complete liquidation of the housing area, cf. Section 168 b, subsection of the Public Housing Act. 1, despite the fact that no specific assessment is made of whether such settlement is necessary, etc.

On this basis, it is argued that the Housing and Planning Board's approval of the sale on the basis of the disputed Development Plan together constitutes a violation of the applicant's right to choose a place of

residence pursuant to Article 2, subsection 1, in Additional Protocol No. 4 to the ECHR, and that the intervention in this right is not or cannot be justified according to Article 2, paragraph 3 or 4.

4.2. Article 8 of the European Convention on Human Rights and the right to respect for private and family life and home

Article 8 ECHR protects against arbitrary interference with the individual's right to respect for his private and family life, his home and his correspondence. Intervention by a public authority in ECHR art. 8 is only permitted if it can be justified according to subsection (1) of the provision. 2, which requires that the intervention is based on national law and is necessary in a democratic society for the sake of one of the legitimate purposes listed in the provision.

It is argued that interference with the applicants' right to remain living in their rented accommodation constitutes an interference not only in their private and family life, but also in their home, cf. EMD's judgment of 17 October 2013, Winterstein et al. . v. France (27013/07), paragraph 141, judgment of 12 June 2014, Berger-Krall et al. v. Slovenia (14717/04), paragraphs 254 and 265, judgment of 22 October 2009, Paulic v. Croatia (3572/06), paragraph 38, and judgment of 24 April 2012, Yordanova and others v. Bulgaria (25446/06), paragraph 105.

It is hereby asserted that all applicants and their family members in the household have lived in their respective apartments in Mjølnerparken for a long number of years and that they have entered into permanent rental agreements with the housing association.

The applicants are thus seen to have a sufficient and long-term attachment to their homes for them to undoubtedly constitute a home covered by Article 8 of the ECHR. This also applies to those of the members of the applicants' families and households who are not directly listed on the lease, cf. in that direction, i.a. ECtHR judgment of 21 April 2016 in Ivanova and Cherkezoy v. Bulgaria (46577/15), paragraph 49.

It is claimed that, as a result of the sale, the applicants are in fact required to vacate their home, as their landlord thereby loses control over their tenancy, and this is not passed on to the new owner of square II and III.

It is therefore claimed that the Norwegian Housing and Urban Development Agency's approval of the sale on the basis of the disputed Development Plan constitutes an interference with the applicants' right to respect for their home pursuant to ECHR Article 8, subsection 1.

It is further claimed that the applicants will also lose the network and community that they have built up in Mjølnerparken during their many years of residence in the forced eviction from their home. The approval of the sale on the basis of the Development Plan thus also constitutes an intervention in their right to respect for private and family life.

It follows from ECHR Article 8, subsection 2, that interference with privacy that also affects a person's home can be justified, but it follows from the ECtHR's practice that there must be particularly weighty reasons to justify such a violent interference as the loss of one's home, cf. e.g. ECtHR's judgment of 13 May 2005, McCann v. Great Britain (19009/04), paragraph 50. It is not sufficient to simply state that the intervention is justified in national law without including and taking into account the specific circumstances of the case, cf. judgment of 15 January 2008, Ćosić v. Croatia (28261/06), paragraph 21. It also follows from the ECtHR's practice that, in this assessment, i.a. emphasis must be placed on the consequences of the intervention for the individual's identity, self-determination, physical and moral integrity, maintenance

of interpersonal relationships, and preservation of a fixed and safe place in the local community, cf. judgment of 24 April 2012, Yordanova et al. v. Bulgaria (25446/06), paragraph 118.

As stated above, the real purpose of the Development Plan - and the sale carried out on the basis of this - is to force the eviction of residents with a "non-Western" background, which cannot be considered a purpose worthy of recognition. The development plan, the sale and the eviction of the applicants thus pursue neither the consideration of national security, public safety, nor the economic welfare of the country, to prevent disorder or crime, to protect health or morals, or to protect the rights or liberties of others, and are thus in itself not in accordance with ECHR Article 8.

Even if it is assumed that the approval of the Development Plan and the subsequent sale pursues a worthy purpose, the sale and thus the eviction of the applicants from their home is not a necessary and proportionate means. This is again supported by the fact that it already appears from the Development Plan that prior to the preparation of the Development Plan, etc. measures have been taken which are seen to be able to achieve the purpose and which do not require the sale and transfer of the applicants' home.

The Housing Authority's approval of the sale on the basis of the disputed Development Plan does not contain any special consideration of how intrusive the sale may actually be for the residents (including the applicants), including when uncovering medical conditions, age-related conditions or other conditions that may concretely imply causation of irreparable damage.

Those of the applicants who have minor children living at home will, as a result of the Housing and Planning Agency's approval of the sale on the basis of the disputed Development Plan, also be severely affected by the forced eviction, as the children, in the event of an eviction and forced relocation to another area away from their current residential area will have to change schools and experience a break in their everyday life. In addition, the postponements mean that all of the applicants will be cut off from the network and the unity that they have built up through their many years of stay in Mjølnerparken.

The individual circumstances of the applicants thus support – combined with the other failure to include relevant circumstances prior to the approval of the Development Plan – that the Housing Authority's approval of the sale on the basis of the disputed Development Plan is not proportional.

Boligop Planning Agency's approval of the sale on the basis of the disputed Development Plan thus, overall, constitutes a violation of the applicants' rights under Article 8 of the ECHR.

4.3. Article 1 of Additional Protocol No. 1 to the European Convention on Human Rights and the right to property

According to Article 1 of Additional Protocol No. 1 to the ECHR, every person is entitled to undisturbed enjoyment of his property. It follows from the provision that no one may be deprived of his property except in the interests of the public good and in accordance with the cases and conditions laid down by law.

The ECtHR has recognized that a person's access to a tenancy may be protected by Article 1 Additional Protocol No. 1 to the ECHR, cf. ECtHR judgment of 24 June 2003, Stretch v United Kingdom (44277/98), paras 32-35.

It is thus argued that all applicants who have entered into indefinite lease agreements with the housing organization have the right to enjoy their property undisturbed, and that this right is unjustifiably affected by the Housing Authority's approval of the sale.

Regardless of the fact that the additional protocol does not explicitly contain procedural rights for a person against whom the right to property is encroached upon, it follows from the EMD's practice that there must be a reasonable opportunity to effectively challenge the encroachment on the right, cf. . of judgment of 21 May 2002, Jokela v. Finland (28856/95), paragraph 45.

At the same time, it follows from the ECtHR's practice that the assessment implies that the consideration of the public good against the consideration of the rights of the person specifically affected must be weighed against each other, with particular emphasis on whether the intervention entails a disproportionate burden, cf. e.g. ECtHR judgment of 29 April 1999, Chassagnoun and others v France (25088/94, 28331/95 and 28443/95), para 85.

Although it must be assumed that contracting states have a wide margin of discretion when dealing with social and economic issues, regulation that constitutes a violation of the prohibition against discrimination must not be implemented, cf. ECtHR judgment of 24 October 2019, JD and A v United Kingdom (32949/17).

In any event, it is claimed that the approval of the sale on the basis of the Development Plan has not given the applicants reasonable access to challenge the encroachment on their property rights linked to the indefinite rental of their homes, just as there does not appear to be a sufficient public interest in the encroachment , which is necessary for the public good. It should be noted here – with reference to the above – that the intervention cannot in any case be considered to be proportional.

On this basis, it is claimed that the Housing Planning Board's approval of the sale on the basis of the disputed Development Plan has in reality violated the applicants' rights in violation of the right to respect for the enjoyment of their property as laid down in Article 1 of Additional Protocol no. 1 to the ECHR.

PROCEDURAL NOTES:

The case has been brought before Copenhagen City Court, which is the defendant's domicile, cf. Section 235, subsection of the Judicial Procedure Act. 2.

With reference to Section 250 of the Administration of Justice Act, and as all applicants make the same claim to the Housing and Planning Agency, the case is brought as a single case.

In addition, it is noted that all the applicants' tenancies are located in blocks II and III, which are covered by the sale, according to which the applicant has a sufficient legal interest in the initiation and conduct of the case. Reference is hereby made separately to the ruling of the Eastern High Court of 15 December 2021 in case BS-27824/2020-OLR.

Procedural notices etc. can be given to lawyer Eddie Omar Rosenberg Khawaja via the courts' case portal.

1. Request for referral to the Eastern High Court and request for joint processing with the case (BS-27824/2020-OLR)

As reference is made to section 348, subsection of the Administration of Justice Act. 2, no. 6, the applicants request that *the case be referred* to the Eastern High Court, cf. section 226, subsection of the Administrative Procedure Act. 1.

In support of the request for referral, it is generally argued that the request is particularly based on the fact that the case is closely related to the case that is already pending and 1. is being processed by the

Eastern High Court. The parties are the same, although the present lawsuit is also directed against the Housing and Planning Agency.

Copenhagen City Court has thus previously, among other things, assessed that the already referred case relates to issues of a certain complexity and of a principled nature which have general significance for the application of law and legal development, which is why the case in question was referred to the Eastern High Court as first instance. Reference is made to the Copenhagen City Court ruling of 9 July 2020 in case BS-21068/2020-KBH.

The applicants must also request that the case be referred, so that *joint processing can take place* with the already pending case, BS-27824/2020-OLR, cf. section 254, subsection of the Judicial Procedure Act. 1, given the close connection between the cases, the course of the case and the legal basis.

If the Eastern High Court in the case BS-27824-OLR thus concludes that the Development Plan is invalid, the basis for the Housing and Planning Agency's approval, which is under review in the present case, will also cease to exist.

On that basis, the applicants find it most appropriate and process-saving for the present case to be processed jointly with the one already pending.

2. Request for suspensive effect

It is also requested that the present lawsuit be given *suspensive effect* , so that the sale of square II and III is not finally carried out until a decision has been taken on the validity of the board's approval of the sale.

The question of validity is then particularly linked to the question of whether the Development Plan, which is the basis of the sale, is valid or not, and thus also the questions that are currently being dealt with by the Eastern High Court in the case BS-27824/2020-OLR.

In support of the request that the present action be given a suspensive effect, the applicants note that it follows from the Supreme Court's practice that the assessment of whether an action in which an administrative decision or case processing is challenged and brought before the courts pursuant to section 63 of the Constitution, subsection 1, without separate statutory authority must be given suspensive effect, is based on a balancing of the public interest on the one hand in not delaying the implementation of the decision, against on the other hand the nature and extent of the damage the applicant may suffer, just as importance must be attached to whether, after a preliminary assessment, there is a reasonable basis for the claim of invalidity, cf. to this U 1994.823 H, U 2000.1203 H, U 2012.2572 H, U 2018.790 H and U 2022.2449 H.

It appears from the publicly available information on the sale of Mjølnerparken's blocks II and III (appendix 1) that the blocks in question, which are currently undergoing renovation according to the master plan for Mjølnerparken, are to be taken over in 2023, when the current renovation project has been completed.

It also appears from the latest information from Bovita forwarded to the department board for Mjølnerparken (**appendix 18**) that the current renovation plan for square II and III is expected to be finally completed in early 2024.

The applicants then claim that there is a basis for granting the present trial a suspensive effect as far as the Building and Planning Agency's approval of the purchase agreement for square II and III in Mjølnerparken is concerned.

It is hereby argued that the sale of the applicants' public rental housing, which has been occupied by the applicants for between 15 and 30 years, has an extremely invasive nature, and that the sale will result in forced permanent eviction of the rental housing, just as the applicants would not, if they were to succeed in the present case or the case under consideration in Eastern High Court case BS-27824/2020-OLR.

It is claimed that final approval of the sale of blocks II and III, where the applicants' rental homes are located, will not mean that the development plan that has been adopted for Mjølnerparken cannot be effectively implemented, as demands for the reduction of public family homes, as follows from the Public Housing Act, must not be implemented until 2030.

It is further argued that the renovation of blocks II and III can otherwise continue in accordance with the master plan adopted for Mjølnerparken, regardless of the context in which the renovation works may otherwise be included in the basis of the agreement between Bovita and NREP on the purchase of blocks II and III.

The applicants thus claim that an approval of the sale by the Danish Building and Planning Agency's decision of 4 January 2023 will cause irreparable damage to the applicants' rights under the Public Housing Act, and that, on the contrary, there do not appear to be any special current and significant interests in, that the approval is not postponed.

The applicants also note, with reference to the above-mentioned pleas, that when assessing whether the lawsuit should be given suspensive effect, consideration must be given to the principle of effective legal protection of the prohibition of discrimination and the rights that the applicants thereby have under EU law, cf. . Judgment of the European Court of Justice in LCL Le Crédit Lyonnais, case C 565/12, paragraph 44.

It must also be included in the assessment that it is a sale of family rental housing and the protection thereof, which i.a. follows from Article 7 of the EU Charter of Fundamental Rights, according to which it follows from the practice of the European Court of Justice that the possibility of assigning legal action, etc. suspensive effect, can constitute a relevant step that ensures the effective protection of such rights, cf. Case C-34/13, Kusionova v SMART, paragraphs 60 to 67, and Case C-415/11, Mohamed Aziz v Catalunyacaixa.

3. Request for registration of notice of the trial on deed

To the extent that the court finds no basis for granting the present trial a suspensive effect, the applicants request that a decision be made that notice of the present trial be registered on relevant deeds linked to the transfer and sale of squares II and III.

The applicants hereby refer to section 12, subsection of the Property Registration Act. 3.

PROVOCATIONS:

The Danish Building and Planning Agency **is invited (1)** to present a copy of the purchase agreement entered into between Bovita and NREP, which forms the basis for the Agency's approval of 4 January 2023.

ORIENTATION ON PROCESS NOTIFICATION:

Finally, the applicants note that Bovita, NREP and the Municipality of Copenhagen have, at the same time as the submission of the present summons, been notified of the proceedings, and invited to, to the extent they deem it necessary, submit a request to intervene in the case in order to take care of any interests.

VAT REGISTRATION:

For the sake of the calculation of court costs, it must be stated that the applicants are not VAT registered.

APPENDICES AND EVIDENCE:

During the case, a number of the applicants will give a party statement.

In addition, the following annexes are provisionally invoked:

Appendix 1:	Development plan for Mjølnerparken May 2019
Annex 2:	Urgent announcement of 16 October 2020 from the UN special rapporteurs
Appendix 3:	Press release of 22 December 2021 from NREP regarding the purchase of Mjølnerparken
Appendix 4:	Minutes from the meeting of the Citizens' Representative on 2 June 2022 (item 53)
Appendix 5:	Decision of 4 January 2023 on approval of the sale of public housing etc. in Mjølnerparken
Annex 6:	Lease, Applicant 1
Annex 7:	Lease, Applicant 2
Annex 8:	Lease, Applicant 3
Exhibit 9:	Lease Agreement, Applicant 4
Appendix 10:	Lease contract, Applicant 5
Annex 11:	Lease contract, Applicant 6
Appendix 12:	Lease contract, Applicant 7
Appendix 13:	Extract from Economic analysis, February 2018, Ministry of the Economy and the Interior
Appendix 14:	The Ministry of Transport and Housing's approval of the Development Plan of 10 September 2019
Appendix 15:	Article from 8 July 2019, Danmarks Radio, DR news
Appendix 16:	Academic report from the Center for Drug Research, Department of Psychology, Aarhus University - "The demographic development in Mjølnerparken compared to three SUB areas in the period 2013-2019", 2020
Appendix 17:	Extract from the Ministry of Immigration and Integration's report "INTEGRATION: STATUS AND DEVELOPMENT 2019 – Focus on non-Western countries"
Appendix 18:	Revised timetable for renovation etc. of Mjølnerparken on 3 January 2022

Copenhagen, 21 April 2023

[Signed]

Eddie Omar Rosenberg Khawaja